



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Ref: 8Enf-EPR

July 2, 2010

Dana Williams, Park City Mayor
Park City Municipal Corporation
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060

Dear Mr. Williams:

Thank you for your letters of June 10 and June 18, 2010. I welcome your statement that Park City is willing to meet with EPA to negotiate an agreement within the next six-months to site and develop a new repository that is ready to accept waste by May, 2012. As a next step, I would like to take this opportunity to address a few concerns raised and questions posed in your correspondences.

1. Involvement of United Park City Mines, other parties, and the stakeholder process

As part of its Superfund process, EPA seeks community and public involvement so that it may fully understand and respond to the needs of those most directly affected by cleanup response actions. Stakeholder groups play an important role and provide valuable input for EPA to consider during its decision-making processes. Region 8 welcomes your offer to re-initiate this process for the Silver Creek Watershed.

For the purposes of upcoming negotiations, EPA envisions a multi-party agreement to achieve the short and long-term goals of a new repository. When we meet, the Region will discuss what it sees as the advantages to participation from Park City, United Park City Mines (UPCM), and the State of Utah in these discussions. While we value the interest and cooperation of each party, the Agency does not hold the view that success depends on the involvement of any one party. We look forward to a frank discussion of all possible solutions and remain open to various alternatives.

2. Voluntary Cleanup Activities; Site waste to be left in-place

You asked about the ability of each parcel to remediate on-site; this issue relates to Richardson Flat OU2 (OU2) Voluntary Cleanup activities. As you mentioned, a soils ordinance is in place at the OU2 Site. That ordinance is defined by the borders of OU2, and provides for

property owners to leave waste in-place with the construction of a proper cap. This remains a possibility for up to 1,000,000 cubic yards (yds³) of site waste.

3. Volumes and capacity

EPA is currently evaluating how much volumetric capacity remains at the Richardson Flat OU1 repository. The estimated volume of total site waste that will be the subject of future EPA cleanups will range from 1,259,000 to 2,259,000, depending on the amount of waste left in-place per the VCUP, referenced immediately above. EPA estimates that Park City owns approximately 412,400 yds³ of this currently exposed site waste.

4. Location of and costs associated with repository

Accounting for Park City's elimination of OU2 parcel SS-57-1 from consideration, Park City has identified three additional parcels for the potential repository. Although parcel SS-28-A-X will not provide the geotechnical foundation necessary, parcels SS-28-A-1-X and SS-27-B-X may meet repository foundational requirements. Preliminary estimates place the range of potential capacity from approximately 825,000 to 1,240,296 yds³. The costs of building a repository crossing both properties could be anywhere from \$1,500,000 to \$4,000,000, depending on a myriad of factors including, but not limited to, anticipated land use after repository closure.

5. Silver Maple Claims status

Thank you for your interest in this "Middle Reach" area of the Watershed. This area contains approximately 260,000 yds³ of exposed waste and, as such, remains as part of EPA's Watershed cleanup plan. Current estimates show that approximately 100,000 yds³ of this total volume is owned by Park City.

6. EPA has not been responsive and has caused delays of Park City projects

Attached to your correspondence of June 10, 2010, is a timeline of recent events used to support a claim that EPA has been in some manner unresponsive. EPA would like to offer the following comments and alternative perspective in response to your timeline leading up to the involvement of EPA's Regional Administrator. In 2007, Park City communicated to EPA's Remedial Project Manager (RPM) that the City wanted to use the Richardson Flat OU1 repository to dispose of newly identified City waste. The RPM responded that EPA would honor past understandings reached with Park City regarding disposal of waste at OU1 and, additionally, would agree to accommodate new waste from several additional Park City projects. This accommodation is documented in a July 2, 2007 document, and was reached with the understanding that Park City would not thereafter ship additional developmental waste to the OU1 repository. EPA was becoming concerned about the repository's capacity and saw a potential need to reserve capacity for exposed waste. On March 9, 2009, EPA and the State of Utah (UDEQ) met with representatives from Park City to discuss the limited capacity at Richardson Flat OU1 and the need to work together to select a new repository location.

In a letter dated January 28, 2010, United Park City Mines notified the RPM that Park City had sent more material to Richardson Flat OU1 than EPA had provided for in the Agency's July 2, 2007 agreement. During a May 10, 2010 meeting with UDEQ and Park City, the RPM reasserted to Park City representative Diane Foster that the City had exceeded its capacity at the Richardson Flat OU1 repository. On May 11, 2010, EPA memorialized the shipment restrictions previously communicated by issuing a technical memorandum that reiterated the issues communicated verbally to Park City the day before.

On May 15, 2010, Park City attempted to bring waste material to the Richardson Flat OU1 repository for disposal. Park City represented to United Park City Mines that the RPM had authorized the additional waste. The RPM notified UPCM that they were not to accept the waste. On May 18, 2010, in response to an email from Park City, the RPM replied to Diane Foster that she was on Agency travel and that the Richardson Flat Site team would provide a written response when she returned. Shortly thereafter, and while still on Agency travel, the RPM had two conversations with Senator Bennett's Office regarding the disposal concerns of Park City. EPA's RPM returned to the office on May 27, 2010. On June 1, 2010, the Congressional Representatives sent a letter requesting a meeting in Denver with the Regional Administrator, James Martin. Mr. Martin met with Park City representatives on June 8, 2010.

7. Park City's role, considering long-term mining activity and an ongoing OU2 RI/FS

EPA recognizes that understanding your role in the context of cleaning-up a historic mining site can be frustrating. The Region appreciates your concerns and will follow the regulatory process to seek the involvement of and compensation from all potentially responsible parties. The Agency anticipates that the subject of our upcoming negotiations will be for disposal of waste at a new repository. This would dovetail into, but not be part of, any ongoing investigations to determine the nature and extent of contamination that is the subject of a separate OU2 Remedial Investigation and Feasibility Study (RI/FS) Administrative Order on Consent.

8. Respective regulatory roles

Your letter notes a concern regarding EPA's regulatory role and asks whether the Agency intends to preempt Park City's soils ordinance or other future ordinances regarding mine reclamation or the mitigation of physical mine hazards. The Region intends to work with Park City regarding all aspects of mining waste in the Watershed, but from a regulatory perspective, EPA will identify and evaluate ARARs as part of the Agency's cleanup process. The Agency will also be concerned with assessing the integrity of and long-term provisions for the repository. EPA cannot, however, operate a repository and as such, is relying on other parties agreeing to do so.

9. Priorities of disposal

EPA understands that Park City has two varieties of waste associated with ownership of properties within the Silver Creek Watershed. The first is waste currently exposed and causing threats or potential threats to human health or the environment. For the purposes of this letter,

this shall be termed as "site waste." EPA studies estimate the volume of Park City's site waste to be approximately 412,400 yds³. Due to the risks presented by this material, the Region anticipates that priority will be given to properly dispose of this site waste first, in accordance with our joint responsibilities toward protection of your citizens and the environment. The second type of waste is currently unexposed, but is waste that will be exposed in the future during the course of Park City's municipal activities. This can be termed "development waste," and Park City has indicated that it plans to generate approximately 1,000,000 yds³ as part of upcoming, planned projects. A new repository must accommodate site waste before development waste is disposed of in the new repository.

10. Availability of Asarco bankruptcy funds

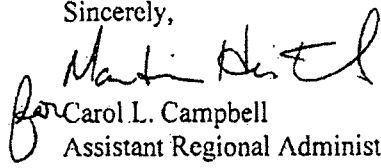
Asarco funds will be used in proportion to Asarco's responsibility.

11. Agreement terms

EPA anticipates an agreement which recognizes the respective responsibility of each party. Where there is CERCLA liability for waste material, full recovery of costs associated with the cleanup and disposal of that material is expected. Where development waste is at issue, it is expected that the costs associated with the disposal of the material will be borne by the party seeking to dispose of it, as is the case when any individual disposes of waste at a commercial repository.

In closing, EPA would like to invite you to participate in a meeting in Denver within the next few weeks. My staff is currently working on a multi-party framework for an agreement and will be in touch with you by July 16, 2010. Regarding the communication protocol clarification that you requested in your June 10th letter, if you would like to supplement discussions with the Richardson Flats team, please feel free to request a meeting with me. We look forward to meeting with you and working together to meet our collective current and future needs in the Silver Creek Watershed.

Sincerely,


for Carol L. Campbell
Assistant Regional Administrator
Office of Ecosystems Protection
and Remediation